

TO: MHCA MEMBERS  
DATE: JUNE 26, 2017 VIA EMAIL  
SUBJECT: NH RATES - MEDICAID - IMPLEMENTATION OF HB 618 - DRAFT - SERIOUS CONCERNS

Medicaid officials unveiled their first draft proposed rules to establish the Medicaid per diem rates for State Fiscal Year 2018 – the rates fall well below the amounts expected by nursing facility providers. Barb Smith, Administrator of the Senior and Long Term Care Division, explained that the Department base budget is \$6 million below the amount needed to keep per diem rates at the 2017 rate base. Additionally, the automatic payment reductions authorized in Senate Bill 261 reduces nursing home funding by an additional \$3.7 million in SFY 18. I've attached a preliminary funding summary and rate schedule for your information. The Department indicated \$11 million will be added to nursing home rates due to the increased taxes in HB 618. The bottom line is a rate increase of only about \$2 per Medicaid day plus wage funding included in HB 618 which is being handled separately.

MHCA, together with Bob Olsen, MHA Vice President, shared our concerns with Ms. Smith that the nursing homes proposed a tax increase and supported HB 618 with the caveat the new funds would not supplant the current state funding for rates. That is, we expect a rate increase of \$10 - \$12 per day for SFY 18, and another increase in this range for SFY 19.

The Department originally planned proposed rules to provide just the \$2 per day average rate hike, to be filed today to begin the ratemaking process. The Department has now determined to delay filing a proposed rule while our concerns are being considered by Department leadership. A proposed rule is expected to be officially released within the next 2 weeks.

The Department has determined to propose rules for all Medicaid providers to be effective October 1, 2017 in order to have time to react to potential cuts caused by the automatic spending triggers in SB 261. The Department, like all State agencies, are anticipating levels 1-3 spending cuts due to revenue shortfalls from the amounts estimated by the legislature. Delaying the effective date of payment cuts until October 1 causes a bigger reduction since the entire annual reduction must be saved in just 9 months.

Meanwhile, MHCA and MHA are moving forward jointly to:

Inform the Department and legislators that we oppose any move to reduce current nursing facility rates, and that we expect that HB 618 funding will be used to provide a significant rate hike to the facilities paying the higher fees.

Engage counsel to determine the options available to nursing facilities to protect against supplanting state spending with HB 618 funds. Those options include legal recourse in HB 618 and the potential challenge to automatic spending cuts contained in SB 261.

We will keep you informed about any further developments. Please contact me with any questions.

Attachments:

First draft FY 18 NF per diem rates spreadsheet  
NF Rate funding and calculations summary

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## Nursing Facility SFY2018 Rate Calculations

	<u>SFY2017</u>	<u>SFY2018</u>
HB2 Appropriation	\$139,899,200	\$139,042,681
<u>Provider Rate Increase</u>	<u>\$6,087,824</u>	<u>0</u>
Total Funding	\$145,987,024	\$139,042,681
 HB618 Funding	 0	 \$11,132,634
<u>SB261 Trigger Reduction</u>	<u>0</u>	<u>(\$3,713,853)</u>
Total Available Funding	\$145,987,024	\$146,461,462
 Patient Contribution (Per day)	 \$32.26	 \$32.26
 Medicaid Days	 1,015,234	 1,020,679
 Average Rate	 \$176.06	 \$178.17

Note: Rates for SFY2018 were calculated using 75% of the appropriation and days minus SB261 trigger and increased by HB618 full amounts.



AN ACT INCREASING THE UTILIZATION FEE FOR NURSING FACILITIES TO INCREASE NURSING HOME REIMBURSEMENT RATES; PROVIDING A WAGE INCREASE FOR CERTAIN DIRECT CARE WORKERS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-60-102 AND 15-60-211, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-60-102, MCA, is amended to read:

**"15-60-102. (Temporary) Utilization fee for bed days in nursing facilities.** (1) A nursing facility in the state shall pay to the department a utilization fee for each bed day in the facility in the following amounts:

(a) in the amount of \$2.80, which must be applied to maintain the price-based average payment rate to nursing facilities at the fiscal year ~~2003~~ 2017 base amount;

(b) in the amount of \$5.50 to be used to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount as provided in 15-60-211;

~~(b)(c)~~ in fiscal year ~~2006~~ 2018, an additional amount of ~~\$4.25~~ \$3 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year ~~2003~~ 2017 base as provided in 15-60-211; and

~~(c)(d)~~ beginning July 1, 2006 on and after July 1, 2018, an additional amount of ~~\$5.50~~ \$7 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year ~~2003~~ 2017 base as provided in 15-60-211.

(2) The fees collected must be deposited as follows:

(a) the amounts collected as provided in subsection (1)(a), in the general fund; and

(b) the amounts collected as provided in subsections (1)(b) ~~and (1)(c)~~ through (1)(d), in the account in the state special revenue fund as provided in 15-60-211.

(3) A nursing facility may not place a fee created in this section on a patient's bill. (Void on occurrence of contingency--sec. 18, Ch. 746, L. 1991--see chapter compiler's comment.)"



**Section 2.** Section 15-60-211, MCA, is amended to read:

**"15-60-211. State special revenue account.** (1) There is a nursing facility utilization fee account in the state special revenue fund as provided in 17-2-102.

(2) (a) All money collected under 15-60-102(1)(b) and (1)(c) through (1)(d) must be deposited in this account.

(b) Money in the account collected under 15-60-102(1)(b) must be used by the department of public health and human services for the purpose of increasing maintaining the average price paid for medicaid nursing facility services above at the fiscal year 2003 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes.

(c) All money collected under 15-60-102(1)(c) and (1)(d) must be used by the department of public health and human services for the purpose of:

(i) increasing the average price paid for medicaid nursing facility services above the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes; and

(ii) in each year of the biennium beginning July 1, 2017, providing a wage increase of 50 cents per hour to certified nursing assistants working in nursing facilities, provided in increments of 25 cents per hour every 6 months.

(3) Money remaining in this account at the end of a fiscal year may not be expended or transferred for any other purpose and is subject to appropriation by a subsequent legislature for purposes consistent with subsection (2)."

**Section 3. Appropriation.** (1) (a) There is appropriated from the special revenue account provided for in 15-60-211 to the department of public health and human services \$4,427,982 in fiscal year 2018 and \$10,331,958 in fiscal year 2019 to fund increases in medicaid payments to nursing facilities.

(b) Of the amount appropriated in subsection (1)(a), \$584,120 must be used in fiscal year 2018 and \$1,365,085 in fiscal year 2019 for the wage increase for certified nursing assistants provided for in 15-60-211(2)(c)(ii).

(2) (a) There is appropriated from the federal special revenue fund to the department of public health and human services \$8,391,884 in fiscal year 2018 and \$20,074,039 in fiscal year 2019 to fund increases in payments to nursing facilities.

(b) Of the amount appropriated in subsection (2)(a), \$1,103,112 must be used in fiscal year 2018 and \$2,577,968 in fiscal year 2019 for the wage increase for certified nursing assistants provided for in 15-60-211(2)(c)(ii).

**Section 4. Effective date.** [This act] is effective July 1, 2017.

- END -

HB0618

I hereby certify that the within bill,  
HB 0618, originated in the House.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

\_\_\_\_\_

Chief Clerk of the House

\_\_\_\_\_

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

HOUSE BILL NO. 618  
INTRODUCED BY N. BALLANCE

AN ACT INCREASING THE UTILIZATION FEE FOR NURSING FACILITIES TO INCREASE NURSING HOME REIMBURSEMENT RATES; PROVIDING A WAGE INCREASE FOR CERTAIN DIRECT CARE WORKERS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-60-102 AND 15-60-211, MCA; AND PROVIDING AN EFFECTIVE DATE.